

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

Brian Nalezny,

Complainant,

v.

**ORDER OF DISMISSAL**

Neighbors for Linea,

Respondent.

On October 7, 2013, Brian Nalezny filed a Complaint with the Office of Administrative Hearings alleging that "Neighbors for Linea" violated Minn. Stat. § 211A.12 by accepting contributions from candidate Linea Palmisano in excess of the \$300 contribution limit.

The Chief Administrative Law Judge assigned this matter to the undersigned Administrative Law Judge (ALJ) on October 7, 2013, pursuant to Minn. Stat. § 211B.33. A copy of the Complaint and attachments were sent by United States mail to the Respondent on October 8, 2013.

After reviewing the Complaint and attachments, the Administrative Law Judge finds that the Complaint does not state a *prima facie* violation of Minn. Stat. § 211A.12.

Based upon the Complaint and the supporting filings and for the reasons set out in the attached Memorandum,

**IT IS ORDERED:**

That the Complaint filed by Brian Nalezny against Neighbors for Linea is **DISMISSED**.

Dated: October 10, 2013

s/Barbara L. Neilson  
BARBARA L. NEILSON  
Administrative Law Judge

## NOTICE

Under Minn. Stat. § 211B.36, subd. 5 this order is the final decision in this matter and a party aggrieved by this decision may seek judicial review as provided in Minn. Stat. §§ 14.63 to 14.69.

## MEMORANDUM

Linea Palmisano is a candidate for Minneapolis City Council Ward 13 in the November 5, 2013 election. The Complaint alleges that Ms. Palmisano's campaign committee, Neighbors for Linea, violated Minn. Stat. § 211A.12 by accepting contributions from Ms. Palmisano herself in excess of the \$300 limit for individual contributions. Specifically, the Complaint alleges that Neighbors for Linea accepted three separate contributions from Ms. Palmisano in 2013, for a total contribution of \$4,500.<sup>1</sup>

### Standard of Review

To set forth a *prima facie* case that entitles a party to a hearing, the party must either submit evidence or allege facts that, if unchallenged or accepted as true, would be sufficient to prove a violation of chapter 211A or 211B.<sup>2</sup> For purposes of a *prima facie* determination, the tribunal must accept the facts alleged as true and the allegations do not need independent substantiation.<sup>3</sup> A complaint must be dismissed if it does not include evidence or allege facts that, if accepted as true, would be sufficient to prove a violation of chapter 211A or 211B.<sup>4</sup>

### Minnesota Statutes § 211A.12 Contribution Limits

Minnesota Statutes Chapter 211A governs campaign financial reporting for candidates for local office (county, municipal, school district) and their committees.

Section 211A.12 provides, in relevant part, as follows:

A candidate or a candidate's committee may not accept aggregate contributions made or delivered by an individual or committee in excess of \$300 in an election year for the office sought and \$100 in other years . . . .

### Analysis

The 1993 Minnesota Legislature significantly amended state laws governing political campaigns and the financing of those campaigns in response to concerns about the potential for and perception of corruption of the political process through undue

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<sup>1</sup> According to the Neighbors for Linea's campaign finance report for the period of January 1, 2013 through August 27, 2013, which the Complainant attached to the Complaint, Ms. Palmisano contributed \$2,500 on February 21, 2013; \$1,500 on March 15, 2013; and \$500 on August 26, 2013.

<sup>2</sup> *Barry v. St. Anthony-New Brighton Indep. Sch. Dist.*, 781 N.W.2d 898, 902 (Minn. Ct. App. 2010).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

influence of large financial contributors.<sup>5</sup> Among other provisions, the new statutes provided incentives for candidates to accept voluntary spending limits; reduced the amount of contributions candidates may accept from political committees, political funds, lobbyists and certain individuals; and limited the amount of contributions a political committee or fund may accept from a single donor in a year.<sup>6</sup> Where a candidate contributes her own funds to her own campaign, however, the potential for corruption and undue influence is, at best, a remote concern. Thus, despite the fact that a candidate is an “individual,” it is evident that the contribution limitations set forth in section 211A.12 are directed at someone other than the candidate.

A reading of the statutes governing campaign financial reporting for legislative, judicial, and state constitutional office-holders supports this conclusion.<sup>7</sup> Minnesota Statutes section 10A.27, subdivision 10, for example, provides that candidates who do not sign the Public Subsidy Agreement may donate as much as they wish to their own committee.<sup>8</sup>

In addition, several decisions of the United States Supreme Court have upheld the right of candidates to spend unlimited personal funds on their own campaigns. In *Buckley v. Valeo*,<sup>9</sup> the U.S. Supreme Court rejected a cap on a candidate’s expenditure of personal funds to finance campaign speech, holding that a candidate has a First Amendment right to vigorously advocate his own election. The Court found that the cap was not justified by the “primary government interest” proffered by the defense, “the prevention of actual and apparent corruption of the political process.”<sup>10</sup> More recently, in *Davis v. FEC*,<sup>11</sup> the U.S. Supreme Court struck down a provision of the Bipartisan Campaign Reform Act of 2002 known as the “Millionaires’ Amendment.” This provision raised the limit on contributions to congressional candidates if their opponent spent above a threshold amount of \$350,000 of personal funds on his or her campaign. The U.S. Supreme Court concluded that the measure unconstitutionally burdened the candidate who contributed the ordinary limit to his or her own campaign.<sup>12</sup>

Based on the comparable campaign financial reporting requirements under Minn. Stat. ch. 10A and the decisions of the U.S. Supreme Court, the Administrative Law Judge concludes that the contribution limits set forth in Minn. Stat. § 211A.12 do not apply to candidates contributing their personal funds to their own campaign committees. Consequently, the ALJ finds the Complainant has failed to allege a *prima facie* violation of Minn. Stat. § 211A.12 on the part of Neighbors for Linea and the Complaint must be dismissed.

### **B.L.N.**

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<sup>5</sup> *Day v. Hayes*, 863 F. Supp. 940, 942, n.1 (D. Minn. 1994).

<sup>6</sup> See Minn. Stat. chs. 10A, 211A and 211B (Supp. 1993) (scattered provisions).

<sup>7</sup> See Minn. Stat. ch. 10A.

<sup>8</sup> Minn. Stat. § 10A.27, subd. 10.

<sup>9</sup> 424 U.S. 1, 52-53 (1976).

<sup>10</sup> *Id.* at 53.

<sup>11</sup> 554 U.S. 724 (2008).

<sup>12</sup> *Id.*